

**EXHIBIT A**

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5 Facsimile: (213) 250-7900

6 Attorneys for Plaintiffs

TRAFFICSCHOOL.COM, INC. and DRIVERS ED DIRECT, LLC,

7 California companies.

8  
9  
10 UNITED STATES DISTRICT COURT  
11 CENTRAL DISTRICT OF CALIFORNIA

12 TRAFFICSCHOOL.COM, INC.,  
13 a California corporation; DRIVERS ED  
14 DIRECT, LLC, a California limited  
liability company,

15 Plaintiffs,

16 vs.

17 EDRIVER, INC., a California  
18 corporation; ONLINE GURU, INC., a  
California corporation; DOES 1 through  
19 10,

20 Defendants.

Case No. CV 06-7561 PA (CWx)

**RULE 26 INITIAL DISCLOSURE BY  
PLAINTIFFS  
TRAFFICSCHOOL.COM, INC. AND  
DRIVERS ED DIRECT, LLC**

21 In accordance with Rule 26(a)(1) of the Federal Rules of Civil Procedure,

22 Plaintiffs TRAFFICSCHOOL.COM, INC. and DRIVERS ED DIRECT, LLC

23 ("Plaintiffs") hereby make the following initial disclosures based on the information  
24 presently available to it:

25 **I. 26(a)(1)(A): POTENTIAL WITNESSES**

26 Plaintiffs are currently aware of the following entities likely to have discoverable  
27 information:

28 EXHIBIT A PAGE 4

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TELEPHONE (213) 260-1800

- 1 a. Edriver, Inc. (creation, management, and marketing of DMV.ORG site
- 2 and related domains);
- 3 b. Online Guru, Inc.(creation, management, and marketing of DMV.ORG
- 4 site and related domains);
- 5 c. Ravi Lohoti (aka Raj Lohoti)(creation, management, and marketing of
- 6 DMV.ORG site and related domains);
- 7 d. Serious.Net, Inc.(creation, management, and marketing of DMV.ORG
- 8 site and related domains);
- 9 e. Find My Specialist, Inc.(creation, management, and marketing of
- 10 DMV.ORG site and related domains);
- 11 f. Dan Negroni (creation, management, and marketing of DMV.ORG site
- 12 and related domains);
- 13 g. TrafficSchool.com, Inc. and Drivers Ed Direct, LLC, Eric Creditor (c/o
- 14 Plaintiffs' counsel; Plaintiffs' businesses and injury to same by
- 15 Defendants);
- 16 h. TrafficSchool.com, Inc. and Drivers Ed Direct, LLC, Chris Kramer (c/o
- 17 Plaintiffs' counsel; Plaintiffs' businesses and injury to same by
- 18 Defendants);
- 19 i. DMVs for states listed on Exhibit 16 of First Amended Complaint
- 20 ("FAC")(DMV moniker, objections to DMV.ORG);
- 21 j. American Safety Council, Robert Proechel, President, 5125 Adanson
- 22 Street, Suite 500, Orlando, FL 32804, (800) 771-2255, (407) 629-4811
- 23 (DMV.ORG referred provider in Florida for traffic school and drivers
- 24 education services; relationship with Defendants);
- 25 k. Golden State Private School, Anthony Zimmer/Randall Zimmer, Director,
- 26 5440-F Thornwood Dr., San Jose CA, 95123, (866) 301-0828
- 27 (DMV.ORG referred provider in California for drivers education
- 28 services; relationship with Defendants);

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1. Jumby Bay Studios, Jamie Salvatore, President, 11783 Borman Dr. St. Louis, MO, 63146, (314) 569-1771 (relationship with parties; producer of the supplemental DVD product "Rules of the Road");
- m. I Drive Safely, Rick Hernandez, President, Gari Garimella CEO/COO, 294 La Moree Rd., San Marcos, CA, 92078, (800) 723-1955 (DMV.ORG referred provider in California, Texas, and other states for traffic school services; relationship with Defendants);
- n. DriversEd.com, Gary Tsfrin, Founder, Gary Golduber, President, 1956 Webster St., Ste 475, Oakland, CA, 94612, (510) 433-0606 (DVM.ORG referred provider in Nevada and other states for drivers education services; relationship with Defendants and Plaintiffs);
- o. Virtual Drive, Kevin Knapp, President, 7009 Rochelle Ln., Amarillo TX, 79109, (806) 680-2587 (DMV.ORG referred provider in Texas, Colorado, and other states for drivers education services; relationship with Defendants and Plaintiff);
- p. Driver Ed in a Box, Chuck Dunbar, Business Development, Pat Barrett, President, 800 Wilcrest, Ste 165, Houston, TX, 77042, (281) 890-2818 (DMV.ORG referred provider in Texas, Colorado, and other states for drivers education services; relationship with Defendants and Plaintiffs);
- q. American Safety Classes, Steven Fox, Vice President, 2350 Route 9 South Old Bridge, NJ, 08857, (718) 436-5956 (DMV.ORG referred provider in New York and New Jersey for traffic school services; relationship with Defendants);
- r. FloridaDrivingCourse.com (relationship with Defendants).
- s. Carfax.com (relationship with Defendants and Plaintiffs);
- t. Insweb.com (relationship with Plaintiffs);

- 1 u. Esurance (relationship with Defendants);
- 2 v. Progressive Direct (relationship with Defendants);
- 3 w. Comparison Market (relationship with Defendants);
- 4 x. NetQuote (relationship with Defendants);
- 5 y. Intelius.com (relationship with Defendants);
- 6 z. Affiliate Programs.com (relationship with Defendants and Plaintiffs);
- 7 aa. Google, Yahoo, MSN, Ask.com (relationship with Defendants and
- 8 Plaintiffs; paid-for advertising practices, non-paid online listings);
- 9 bb. Alexa.com (internet traffic research);
- 10 cc. United States Patent and Trademark Office (attempts to register
- 11 DMV.ORG).
- 12 dd. TeenDriversEducation.com (relationship with Defendants).

## 15 II. 26(a)(1)(B): DESCRIPTION OF DOCUMENTS AND TANGIBLE 16 THINGS

17 Plaintiffs are currently aware of the following documents, electronically stored  
18 information, and tangible things in their possession, custody or control that may be  
19 used to support their claims or defenses:

- 20 a. All exhibits to the Complaint and the FAC;
- 21 b. The DMV.ORG website; all related domains and websites pointing to or
- 22 from the DMV.ORG site; online searches on Google and other search
- 23 engines, online and printed archives of same;
- 24 c. United States Patent and Trademark Office records for Application, Serial
- 25 No. 78777105, including extensions of time to file oppositions filed by
- 26 Plaintiffs and other state DMVs.;
- 27 d. Correspondence to and from state DMVs regarding DMV.ORG;
- 28

- 1 e. Plaintiffs' websites TrafficSchool.com and DriverEdDirect.com and  
 2 websites pointing to or from those sites, and goods and services provided  
 3 therein.

4 **III. 26(a)(1)(C): COMPUTATION OF DAMAGES**

5 Defendants' profits and any damages sustained by Plaintiffs recoverable under  
 6 15 U.S.C. § 1117 have not been computed at this time. Plaintiffs are awaiting  
 7 discovery from Defendants on these issues.  
 8

9  
 10 DATED: April 12, 2007

LEWIS BRISBOIS BISGAARD & SMITH LLP

11  
 12 By Mina Hamilton

13 DAVID N. MAKOUS

14 MINA I. HAMILTON

15 Attorneys for Plaintiffs

16 TRAFFICSCHOOL.COM, INC. and  
 17 DRIVERS ED DIRECT, LLC  
 18  
 19  
 20

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 27 EXHIBIT A PAGE 8  
 28

**PROOF OF SERVICE**

Trafficschool.com, Inc. v. Edriver, Inc. - File No. 25162.14

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 221 North Figueroa Street, Suite 1200, Los Angeles, California 90012.

On April 12, 2007, I served the following document described as **RULE 26 INITIAL DISCLOSURE BY PLAINTIFFS TRAFFICSCHOOL.COM, INC. AND DRIVERS ED DIRECT, LLC** on all interested parties in this action by placing ☒ a true copy ☐ the original thereof enclosed in sealed envelopes addressed as follows:

Brian M. Daucher, Esq.  
Joseph H. Tadros, Esq.  
**SHEPPARD MULLIN RICHTER & HAMPTON**  
650 Town Center Drive, 4<sup>th</sup> Floor  
Costa Mesa, California 92626-1925

☒ (BY MAIL, 1013a, 2015.5 C.C.P.)

☐ I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.

☒ I am readily familiar with the firm's practice for collection and processing correspondence for mailing. Under that practice, this document will be deposited with the U.S. Postal Service on this date with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

☒ (FEDERAL) I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on April 12, 2007, at Los Angeles, California.

  
Vicki Towles

**EXHIBIT B**



**Brian Daucher**

**From:** MINA HAMILTON [HAMILTON@lbbslaw.com]  
**Sent:** Tuesday, September 25, 2007 9:55 AM  
**To:** Brian Daucher  
**Cc:** DAN DECARLO  
**Subject:** Fwd: Re: Damages

**Attachments:** Text.htm; ATT1935960.gif



Text.htm (8 KB) ATT1935960.gif  
(409 B)

fyi

>>>

**From:** DAN DECARLO  
**To:** Brian Daucher  
**Date:** 9/21/2007 12:12 PM  
**Subject:** Re: Damages  
**CC:** Ashley Merlo; Joseph Tadros; MAKOUS, DAVID; MINA HAMILTON

Brian:

I thought we were clear on this yesterday, but we have no problem providing you again our position. We will also note that this has been our position for the entirety of the case.

The Lanham Act provides for monetary remedies based upon the actual damages to our clients and the profits of your client. The Act (Sec 1117) states that for profits, "plaintiff shall be required to prove defendant's sales only; defendant must prove all elements of cost or deduction claimed." You have provided us with your gross sales and your purported offsets to those sales. As such, we intend to ask the jury for "damages" measured by the profits of your client per section of 1117.

I hope this is clear.

**From:** "Brian Daucher" <BDaucher@sheppardmullin.com>  
**To:** "DAN DECARLO" <DECARLO@lbbslaw.com>  
**Date:** 9/21/2007 10:50 AM  
**Subject:** Damages  
**CC:** "MINA HAMILTON" <HAMILTON@lbbslaw.com>, "Joseph Tadros" <JTadros@sheppardmullin.com>, "Ashley Merlo" <AMerlo@sheppardmullin.com>

We really need an answer on this key question:

Are you seeking monetary recovery based upon proof of actual damage (eg, lost sales) to plaintiffs?

Yesterday, you seemed to indicate not, acknowledging the lack of any proof on this, but now the actual damage instruction, on how to assess plaintiffs' actual monetary damage, remains in place.

Defendants are entitled to a clear statement on this point. Thx,

Brian.

Sheppard, Mullin, Richter & Hampton LLP

Brian M. Daucher  
Partner Sheppard, Mullin, Richter & Hampton LLP  
650 Town Center Drive

EXHIBIT B PAGE 10

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This message is sent by a law firm and may contain information that is privileged or confidential. If you received this transmission in error, please notify the sender by reply e-mail and delete the message and any attachments.

Sheppard, Mullin, Richter & Hampton LLP

Please visit our website at [www.sheppardmullin.com](http://www.sheppardmullin.com)

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[decarlo@lbbslaw.com](mailto:decarlo@lbbslaw.com) (email)

EXHIBIT B PAGE 11

EXHIBIT C

1 BRIAN M. DAUCHER, Cal. Bar No. 174212  
2 ROBERT S. BEALL, Cal. Bar. No. 132016  
3 JOSEPH H. TADROS, Cal. Bar. No. 239379  
4 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP  
5 A Limited Liability Partnership  
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7 650 Town Center Drive, 4th Floor  
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13 Attorneys for Defendants  
14 EDRIVER, INC. and ONLINE GURU, INC.

15  
16 UNITED STATES DISTRICT COURT  
17 CENTRAL DISTRICT OF CALIFORNIA

18 TRAFFICSCHOOL.COM, INC., a  
19 California corporation; DRIVERS ED  
20 DIRECT, LLC., a California limited  
liability company,

Plaintiffs,

v.

EDRIVER, INC., a California  
corporation; ONLINE GURU, INC., a  
California corporation; DOES 1 through  
10.

Defendants.

Case No. CV067561  
*The Hon. Percy Anderson*

**DEFENDANTS' RESPONSES TO  
PLAINTIFF'S REQUEST FOR  
PRODUCTION OF DOCUMENTS  
(SET ONE)**

Trial Date: October 30, 2007

21 REQUESTING PARTY: Plaintiffs TRAFFICSCHOOL.COM, INC. and  
22 DRIVERS ED DIRECT, LLC ("Plaintiffs")  
23 RESPONDING PARTY: Defendants EDRIVER, INC. and ONLINE GURU,  
24 INC. ("Defendants")  
25 SET NO.: ONE  
26  
27  
28

EXHIBIT C PAGE 12

1 Defendants further object and will not produce documents responsive  
2 to this request to the extent that it seeks documents related to non-party, non-  
3 respondents Find My Specialist and/or Serious Net.

4 Defendants further object to this request on the grounds that it is  
5 burdensome, oppressive and harassing in that it is partially duplicative of request 11.

6 Defendants object to this request on the grounds that it calls for  
7 information not relevant to the subject matter of the action nor reasonably calculated  
8 to lead to the discovery of admissible evidence.

9 Defendants further object to this request on the ground that it is  
10 burdensome and oppressive in that it is not a proper document request but is better  
11 suited as an interrogatory.

12 Defendants further object on the grounds that Plaintiffs have no viable  
13 legal or equitable claim for damages in this case. Plaintiffs concede they will not  
14 seek their lost profits. In this light, it would be improper, prior to a liability finding  
15 on false advertising to force Defendants to turn over comprehensive financial  
16 information.

17 Defendants further object to this request to the extent that it seeks  
18 confidential and proprietary business and financial information.

19 **REQUEST FOR PRODUCTION NO. 17:**

20 Federal & State tax returns for Your companies from the first use of  
21 DMV.ORG to the present.

22 **RESPONSE TO REQUEST FOR PRODUCTION NO. 17:**

23 Pursuant to meet and confer, this request was withdrawn.

24 **REQUEST FOR PRODUCTION NO. 18:**

25 Balance sheets and detailed Profit and Loss statements from the first  
26 use of DMV.ORG to the present, for any of the following:

27 (a) Online Guru, Inc.;

28 (b) eDriver, Inc.;

EXHIBIT C PAGE 13

1 (c) Find My Specialist, Inc.;

2 (d) Serious Net, Inc.;

3 (e) DMV.ORG.

4 **RESPONSE TO REQUEST FOR PRODUCTION NO. 18:**

5 Defendants object to this request on the grounds that it is overbroad,  
6 burdensome and oppressive in that it is not reasonably limited in time or scope.

7 Defendants further object to this request on the ground that it is  
8 overbroad, burdensome and oppressive in that it seeks documents outside the scope  
9 of Plaintiffs' standing pursuant to the Court's orders of January 22, 2007 and  
10 March 15, 2007.

11 Defendants further object and will not produce documents responsive  
12 to this request to the extent that it seeks documents related to non-party, non-  
13 respondents Find My Specialist and/or Serious Net.

14 Defendants further object to this request on the grounds that it is  
15 burdensome, oppressive and harassing in that it is duplicative of No. 11.

16 Defendants object to this request on the grounds that it calls for  
17 information not relevant to the subject matter of the action nor reasonably calculated  
18 to lead to the discovery of admissible evidence.

19 Defendants further object to this request on the ground that it is  
20 burdensome and oppressive in that it is not a proper document request but is better  
21 suited as an interrogatory.

22 Defendants further object to this request to the extent that it seeks  
23 confidential and proprietary business and financial information.

24 Defendants further object on the grounds that Plaintiffs have no viable  
25 legal or equitable claim for damages in this case. Plaintiffs concede they will not  
26 seek their lost profits. In this light, it would be improper, prior to a liability finding  
27 on false advertising to force Defendants to turn over comprehensive financial  
28 information.

EXHIBIT C PAGE 14

1 action alleged therein, is barred by the applicable statute of limitations.”

2 **RESPONSE TO REQUEST FOR PRODUCTION NO. 60:**

3 Defendants object to this request to the extent that it requests  
4 documents protected from disclosure by the attorney-client privilege and/or work  
5 product doctrine and/or other privacy rights.

6 Without waiving the foregoing, Defendants provide the following  
7 response:

8 Defendants will produce documents supporting their contentions to the  
9 extent not already exchanged in initial disclosures.

10 **REQUEST FOR PRODUCTION NO. 61:**

11 All Documents supporting Your contention in paragraph 15 of Your  
12 Answer to the First Amended Complaint that consumers were not misled.

13 **RESPONSE TO REQUEST FOR PRODUCTION NO. 61:**

14 Defendants object to this request to the extent that it requests  
15 documents protected from disclosure by the attorney-client privilege and/or work  
16 product doctrine and/or other privacy rights.

17 Without waiving the foregoing, Defendants provide the following  
18 response:

19 Defendants will produce documents supporting their contentions to the  
20 extent not already exchanged in initial disclosures.

21 DATED: June 1, 2007

22 SHEPPARD MULLIN RICHTER & HAMPTON LLP

23  
24 By



25 BRIAN M. DAUCHER

26 Attorneys for Defendants  
27 EDRIIVER, INC. and ONLINE GURU, INC.

28 **EXHIBIT C PAGE 15**